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HUMAN RIGHTS QUESTIONS: HUMAN RIGHTS SITUATIONS AND REPORTS OF SPECIAL RAPPORTEURS AND REPRESENTATIVES

Letter dated 22 November 1993 from the Permanent Representative of the Sudan to the United Nations addressed to the Secretary-General

Upon instructions from my Government I have the honour to transmit herewith the enclosed document prepared by my Government in response to the interim report on the situation of human rights in the Sudan prepared by Mr. Caspar Biro and contained in document A/48/601.

I would be very glad if the aforementioned document could be circulated as a document of the forty-eighth session of the General Assembly under agenda item 114 (c).

(Signed) Ali M. O. YASSIN
Permanent Representative

Annex

COMMENTS ON THE INTERIM REPORT
ON THE SITUATION OF HUMAN RIGHTS IN THE SUDAN

Note by Sudan Government *

The Permanent Representative of the Sudan to the United Nations has the honour to transmit to the members of the General Assembly the following comments on the interim report on the situation of human rights in the Sudan prepared by Mr. Gaspar Biro, Special Rapporteur of the Commission on Human Rights, in accordance with the Commission's resolution 1993/60 of 10 March 1993 and the Economic and Social Council's decision 1993/272 of 28 July 1993, document No. (A/48/601) dated 18 November 1993.

* Circulated in the language of submission only.

A. Background

The Commission on Human Rights had discussed the situation of human rights in the Sudan, for the first time, at its forty-seventh session in 1991 under the confidential procedures established by the Economic and Social Council resolution 1503 (XLVIII). The discussion was instigated by some allegations levelled against the human rights record of the Sudan Government. During the course of the discussions the Sudan Government explained that those allegations were unfounded, biased and were actually designed to serve the ulterior objectives of the opponents of the Government of the country.

To allow for an objective verification of those allegations the Commission on Human Rights adopted at its forty-eighth session, a confidential decision requesting the Chairman of the Commission to appoint an independent expert (I.E.) for the purpose of establishing direct contacts with the Government and the people of the Sudan in order to report to the forty-ninth session of the Commission on Human Rights on the human rights situation in the Sudan. On May 12, 1992 the Chairman of the Commission on Human Rights appointed Mr. Gaspar Biro as I.E. for the Sudan.

The I.E. visited the Sudan and spent six working days between November 21 and 26 1992 and has described the attitude of the Sudan Government towards his mission, in his report, as follows: "The I.E. must point out from the very beginning that both the Sudanese Mission and the Government of the Sudan have been very cooperative and that the schedule agreed upon with Ambassador Mohammed was fully accomplished."

Before the submission of the report of the I.E. to the forty-ninth session of the Commission on Human Rights and on 2 December 1992 the General Assembly of the United Nations was called upon to address itself on the issue of the human rights situation in the Sudan at the insistence of some circles, which have sworn vengeance on the Government of the Sudan because of the objections of the latter to their dictates in its pursuance of the New International Order or Disorder - whichever way its supporters or opponents choose to look at it.

As a result the General Assembly passed a resolution on the situation of human rights in the Sudan dated 2 December 1992 expressing "its deep concern at the serious human rights violations in the Sudan" and calling upon the Government of the Sudan and the rebel bandits (SPLA) to take certain measures.

Despite the objections of the Government of the Sudan to that resolution, which has pre-empted the mission of the I.E., nevertheless it has respected the will of the international community and took all necessary measures to comply with that resolution. Those measures included the setting up of a judicial

investigation committee and the enhancement of delivery of humanitarian assistance in compliance with operative paragraphs 7 and 8 respectively.

The above-mentioned resolution of the General Assembly coupled with the insistence of some circles to escalate their confrontation with Sudan Government had a drastic impact on the Commission on Human Rights at its forty-ninth session in February 1993. That impact was exemplified by the Commission's neglect of the recommendation of its working group on country situations to extend the mandate of the I.E. as called for by his report: "...he could not dedicate enough time and effort to study the situation of churches and different ethnic and racial minorities and contact directly the individuals concerned". And so the Commission decided, by resolution 1993/60, that the situation of human rights in the Sudan be examined under the public procedures and requested its Chairman to appoint a Special Rapporteur to report his findings to its forty-eighth session and to the Commission on Human Rights at its fiftieth session. On 30 March 1993, the Chairman of the Commission on Human Rights appointed Mr. Gaspar Biro himself as Special Rapporteur. And at its session of 28 July 1993, the Economic and Social Council, by its decision 1993/272, approved the Commission's resolution 1993/60.

The Special Rapporteur addressed a letter dated 29 July 1993 to the Government of the Sudan requesting an official visit to the country and he has received a prompt official invitation by a letter dated 9 August 1993. Such a quick response shows the extent of the respect of the Government of the Sudan to the will of the international community and its readiness to cooperate. The Special Rapporteur visited the Sudan from 11 to 23 September 1993 and his interim incomplete report is now before this forty-eighth session of the General Assembly.

B. Comments on the interim report:

(1) The Report is incomplete - betrayal of the Mandate:

Under the terms of the Commission on the Human Rights' resolution 1993/60 the mandate of the Special Rapporteur covers the human rights abuses committed by all the parties involved in the armed conflict in the country as rightly referred to in paragraph (7) of the interim report, yet the Special Rapporteur, for reasons not clarified in the report chose to undertake two missions: one in September in order to present an interim report to form the basis for the discussions in the Third Committee of the General Assembly of the United Nations, and another mission at the end of the year, in order to prepare a final report, for the discussions of the Commission in February 1994. The Interim report concentrates altogether on the allegations levelled against the Government - in most cases by individuals - because, as in the words of the Special Rapporteur in paragraph (9) of the Interim Report: " the

circumstances of the September Mission were not appropriate for a thorough investigation of reports on violations of human rights by different SPLA factions in Southern Sudan, although several reliable reports and information were already gathered in this respect". The question that comes readily to mind is: why hasn't a more appropriate time been chosen for the undertaking of the Mission to provide the Special Rapporteur with enough time and means to cover the areas controlled by both sides to the conflict, and thoroughly examine the mass of reports and information, already at the disposal of the Special Rapporteur, so as to present a more comprehensive and balanced report, otherwise the resolution which may be adopted will undoubtedly have a negative bearing on the discussions and the decision of the Commission on Human Rights in 1994, no matter what the Final Report will eventually contain or advocate. More ominous still, is the contention of the Special Rapporteur that, though he will go on to address human rights abuses committed by other parties than the Government of the Sudan it is, however clear, "that the Government of the Sudan, claiming sovereignty over the whole territory of the State, is bound to respect the human rights obligations and is to be held responsible should it not abide by these obligations". In other words, the concepts of fairness and objectivity may go overboard, or to take an example, the Government of Bosnia for instance should be held responsible for the crimes committed by the Serbs and Croats against the Muslim population of Bosnia. We are invited by the Special Rapporteur to be guided by this logic in our deliberations of his interim report.

We feel that by the admission of the Special Rapporteur himself this report is not a complete one, and we therefore invite the members of this Committee, out of fairness and justice, not to adopt any resolution with regard to its content simply because it does not reflect a true picture of the complete situation of human rights in the Sudan. If any resolution is adopted at this stage, that resolution would be unfair and would reflect negatively on the proceedings before the Commission early 1994. What is fair is to take note of what is being presented at this stage by the Special Rapporteur and to address the Commission to consider the report in its totality thereby adopting a balanced resolution. Any other resolution condemning one party to the conflict would be unfair and unjust, specially if it is adopted at the level of the General Assembly thereby making it binding on the Commission which is in no position to reverse resolutions adopted at the General Assembly. On the other hand, the General Assembly could adopt any resolution contrary to what the Commission may recommend. This was the situation Sudan faced in the 49th session of the Commission in March this year, which was influenced by the resolution dated 2nd December 1992 passed by the General Assembly which resulted in resolution 1993/60 appointing the Special Rapporteur. We would hope that the Sudan would not find itself again entrapped by a premature resolution of the General Assembly. We appeal to your conscience, honourable members of this Committee, not to subject us

again to this unnecessary dilemma of designed conspiracy where we would find ourselves accused, tried and convicted before the prosecution completes his case let alone giving us the right to defend ourselves.

(2) Full cooperation by the Government

In paragraph (24) of the report, the Special Rapporteur made the following remarks: " the Government of the Sudan cooperated with the Special Rapporteur by arranging the meetings he had requested..." and "... the Government of the Sudan further facilitated visits to the locations the Special Rapporteur wished to see. No objections were raised by the Government of the Sudan against a visit of the SPLA controlled areas in southern Sudan and the Nuba Mountains...".

No doubt that the above attitude reflected by those remarks is a full and unreserved cooperation and assistance to the Special Rapporteur in the discharge of his duties, and that the Government of the Sudan ensured that the Special Rapporteur has free and unlimited access to any person in the Sudan whom he wished to see. The Special Rapporteur could have used the words of resolution 1993/60 to describe the cooperation of the Government of the Sudan which better suits the situation rather than the bare word "cooperated". It seems that the unreserved cooperation extended by the Government of the Sudan has disappointed the Special Rapporteur.

3. SPLA is responsible for atrocities in Nuba Mountains:

The Special Rapporteur seems to have devoted a large section of his interim report (Paragraphs 62-95) to an area known in the Sudan, as the Nuba Mountains which, though located in the geographical center of the country, is in many respects inaccessible, and is more so during the rainy season. This area had been a confluence of communities with "distinctive ethnic, religious, cultural and linguistic features". However, and in spite of these distinctive features, the social conflicts which took place on tribal basis, were the exception, rather than the rule. The harmony which prevailed between the different communities was shattered during the 1980's before the present government assumed power. The reversion to conflict on a wider scale was not due to the introduction and implementation of the Sharia law, as alleged by the Special Rapporteur, but rather to the rivalry between the political parties during the previous regime, abetted and financed by some neighbouring countries which vied for influence in Khartoum. That era gave rise to the armed militia, which paid lip service of allegiance to one party or the other, but soon enough took up to looting and raiding, leading in the end to bloody clashes between various groups. The situation was fast plunging into another civil war, this time in the Western part of the country. When the present government took over, one of its topmost

priorities, was to put an end to this conflict, and it has largely succeeded in doing that had it not been for the fact that the rebel movement (SPLA) had succeeded meanwhile in making a strong incursion in the region in 1985 "when more than 100 citizens were killed in an Arab Baggara inhabited village - Gardud - in the eastern part of the Nuba Mountains". This act of attacking and annihilating an Arab village was deliberately undertaken by the SPLA to fan ethnic hatreds and atrocities. This is an aspect of the conflict in the region, which in our view, the Special Rapporteur failed to outline in its true perspective, and thus helped to blur the role that the SPLA played in the incitement of the wide scale conflict and in the destruction of those parts of the Region which had the misfortune to come under its control. His remarks that "hundreds of thousands of unarmed civilians are now completely exposed and defenseless to all kinds of atrocities committed on the one side by the PDF, the army, and other Government of Sudan agencies, and on the other side by SPLA troops controlling a large part of the Nuba Mountains", and his frequent references to a strong visible military and PDF presence in Government controlled areas, could lead the unwary observe to conclude that:

a. The heavy military presence in Government controlled areas implies that the scale of atrocities and infringement of human rights in these areas is proportionate to such a presence, and this tends to obscure those committed by the SPLA forces, although the latter are alleged to control larger areas.

b. The frequent references to the PDF forces tends to obscure the fact that its members are recruited locally and drawn from all communities without discrimination, and are assigned to defend the hamlets and the local farms against raids by the SPLA, which often do so to obtain food supplies and secure recruits for their dwindling forces. The Special Rapporteur, however, alleges to have gathered evidence - again without specifying its nature and reliability - of gross violations of human rights in the locations he visited which are under government control, and goes on to contend that these cases must be considered as elements of a larger context. The report is deliberately vague on the responsibility for the instances of human rights violations, and placing the blame on the Government and the SPLA does not specifically state the share of responsibility to which each party is held accountable. Hence, the impression that one gets from the report is that the Government is solely responsible.

The Special Rapporteur in his tour of the Dilling-Kadugli area, has done his utmost to find evidence of abuses by the Government and PDF forces, by resorting to the following methods:

I. Failing to elaborate on evidence of attacks and harassment of civilians by the SPLA, and casting doubt on the authenticity and reliability of such organizations as the Peace and Resettlement Administration for Southern Kordofan by referring to

it in paragraph (72) as "the so-called Peace Group", and the information supplied by it regarding the destruction of the social and economic infrastructure in the region, on account of the attacks of the SPLA.

II. In his review of the evidence given by some individuals, including one or two tribal chiefs, he selected those parts of the evidence, which are of doubtful value and tried to place the onus on the Government, basing his conclusions on "several reliable independent sources" which claimed that a specific tribe in this region is "targeted by the Government of Sudan forces because of being suspected of close collaboration with the SPLA". Thus any information coming from the Government side is to be handled with skepticism, while evidence attributed to independent sources is referred to as "reliable" without indicating how he had come to the conclusion that such evidence is reliable.

III. The Report often refers to some movements of population from outlying and insecure areas to some urban centres under Government control, probably to seek security and food; it refers to the return of refugees to the peace villages set up by the Peace and Resettlement Administration and the figure of 167265 is mentioned as the total population of these villages; it also refers to the claim by the SPLA that there is an estimated population of 200000 to 250000 still living in areas under their control in the Nuba Mountains; yet the Special Rapporteur alleges that "if the present process of uprooting of the Nuba communities is not stopped in short time, it might be irreversible". He describes the situation in the Nuba Mountains as "uprooting" without elaborating on his accusation. However, out of a population of one million inhabiting the region, nearly 400,000 continue to live in the peace villages and the area controlled by the SPLA, apart from the population living in the urban centers, such as, Dilling and Kadugli and the displaced camps around them, with the rest drifting further north to El Obeid, the capital of Kordofan state, and the Federal Capital Khartoum. We understand the word "uprooting" to mean ethnic cleansing with the whole population being forcibly removed from their towns and villages - as is the case with the Muslims in Bosnia - but this situation does not apply to the Nuba Mountains, except in the allegations of the opposition groups and the susceptible Western Media. We believe, therefore, that the conclusions drawn up by the Special Rapporteur in this respect, to say the least, are inconclusive and unfortunate.

In his meetings with four Nuba tribal chiefs, the Special Rapporteur was given a full account of the situation in their respective areas, and they seemed to point out to the following facts:

I. The SPLA is "responsible for all atrocities committed and damages caused in Kadugli area in last years", and the chiefs go on to elaborate the atrocities committed and their

locations, such as, "from 176 of their villages at least 73 were empty in September 1993, and some of the rest surrounded or besieged by SPLA troops".

II. The chiefs mentioned in their testimonials, "several cases of killing and tortures of unarmed civilians, men, women and children, rapes, kidnapping and forced military training of children, burning down of houses, looting", lists containing hundreds of names of victims were also provided. The chiefs' testimonials were classified by the Special Rapporteur as allegations, yet in the same breath he refers to a list of 400 names being supplied by what he calls "independence sources" - an obvious reference in his classification - to opponents of the Government. The frequent references to armed civilians bearing arms, or "walking around without any apparent reason" within the context of his narration of attacks on villages, especially those around the front line, the disappearance of civilians from one or two villages, in areas which have been changing hands, can only indicate that the Special Rapporteur had gone into the Nuba Mountains region with set opinions and pre-conceived conclusions. His allegation that he had "carefully studied the information he has assembled in the form of reports, documents, oral and written testimonials, photographs and videotapes" - all this mass of information studied since the end of his visit to the Sudan on September 23rd, must have been quite an achievement. It is interesting to note that he refers to videotapes, amongst the materials he collected. The provision of such sophisticated material in a rural backward area, raises a number of questions about the reliability of his sources of information. Although, the Special Rapporteur notes, by the way, that "serious abuses have been committed by the two SPLA factions. As mentioned before, these abuses will be included in the next report", yet he goes on to "express his serious concern over violations for which the Government of the Sudan bears responsibility". The responsibility of the SPLA and the atrocities committed by its troops in the different theaters of conflict, and the suffering of the civilian population, caught in the midst of an internecine conflict, is pushed to the periphery with the vague promise , that it will be taken into consideration in the final report - which is yet to be investigated and prepared. Meanwhile, the Committee is called upon to discuss the item before it and to adopt a draft resolution, on the basis of an interim report that lacks both adequate information and the elements of impartiality and balance.

(4) Chasing Individual Cases:

The Special Rapporteur, seems to be interested in chasing individual cases based on information whispered to him by his alleged "reliable sources" probably of individuals opposing the Government. He made a trip from Khartoum to Sawakin - on the Red sea - to check on a Sudanese citizen (paragraph 47) who was sent to prison after being sentenced by a court of law on the charge of conspiracy against the government, a trip that cost time and

expense, done to satisfy the urge of the Special Rapporteur to pursue allegations by elements hostile to the government, to condemn it at all costs. And at the end of his reporting on that case he did not tell us why he did not ask to go to Kassal Prison to see that person. However we would like to assure the Special Rapporteur that the allegations made by that person namely retired Colonel Mohamed Ahmed Elrayah, although dating back to 1991 are under judicial investigations and if established whoever is responsible will face trial. The Kamal Mekki Medani and others cases who were convicted for drinking alcohol in a fair trial and who were defended by more than twenty lawyers at Wad Medani and which resulted in the acquittal of 10 accused and the suspension of the sentences of the others pending appeal were described as an unfair trial, simply because three of the accused were brothers of a "reliable source" of the Special Rapporteur.

(5) Displaced and Refugees:

In reviewing the problem of displacement and refuge, he fails to distinguish between displacement and normal migration of population from rural and pastoral regions to the urban areas, thus lumping together displacement and migration, and coming up with the figure of five million persons (or one fifth the population of the whole country). The government departments concerned, would have given, to the Special Rapporteur, a more realistic picture, had he chosen to clarify the matter with them. As for the problem of those who sought refuge in neighbouring countries, the Special Rapporteur quotes two contradictory figures 263000 Sudanese refugees according to the World Refugee Survey 1993, and 500000 according to the Representative of the Secretary General on Internally Displaced Persons. He does not explain why there are two sets of figures, and why he still considers such information reliable and worthy of quoting in his interim report. And as expected he declined to report about the tremendous efforts of the Sudan Government in hosting mass of refugees of different religious and ethnic origin, an effort applauded by the United Nations Specialized Agencies.

(6) Unfounded Allegations:

The respective government departments, have been inundated by letters and memoranda from politically motivated individuals and groups, enquiring about persons, who are allegedly arrested, disappeared, summarily executed ...etc. On investigation, it has been established that some of them are under investigation for normal infringements of criminal laws - and would eventually go before the courts or released, some are free, some have never been under detention, some names are merely fictitious, and some have already been sentenced by courts for crimes committed and for which they were convicted. Those details are expected to reach the Special Rapporteur at any time because they have already been mailed. Sudan is a very vast country and the means of communications are poor. That is why a response was not possible

before he leaves Khartoum. So the delay was not because those allegations are true as may be understood from the references of the Special Rapporteur.

7. Juba Incidents:

The Special Rapporteur seems to concentrate his allegations on the events which took place during the SPLA attack on Juba in June and July 1992. This attack followed an infiltration by SPLA elements in civilian clothes. The infiltrators, using the element of surprise, succeeded in killing a large number of government troops and innocent civilians. Eventually, the garrison regained the initiative and managed, after heavy fighting to drive out the infiltrators. The heavy fighting and the bombardment of the city by the SPLA before the attack, resulted in a lot of civilian casualties. The way the Special Rapporteur refers to these regrettable events overlooks the fact that there was bombardment, heavy fighting, mopping up operations to rid the city of the armed infiltrators, and presented the whole situation as reprisals and killings by the government troops. To reach such a conclusion he must have taken as reliable sources the information supplied by the opposition groups and the SPLA. What is more serious is the frequent reference, in the foreign media and in the respective reports of the Special Rapporteur, of extrajudicial killings of employees of foreign embassies and relief organizations. The employees referred to in this respect were Sudanese nationals, who took advantage of the diplomatic immunity of the premises of these organizations, and the communications equipment available in these premises, to direct the artillery of the SPLA, which was bombarding the city. The employees involved were justly sentenced by court martial, and paid for their treachery. The reference by the Special Rapporteur to this sad event, as extrajudicial killings, is to ignore the fact that there is a constituted government authority in a city, which was then under siege by an enemy, and an act of treachery which led to hundreds of casualties and fatalities, can only be dealt with by a court martial and in accordance with the rules of International Law pertaining to war, which are universally recognized. We are fully aware that the whole issue of human rights violations has been brought before the respective United Nations organs by a country whose embassy's premises have been used in this instance, and which is trying to cover its embarrassment by pretending to be outraged for the execution of its local employees. The fact remains, the embassy premises in question was given diplomatic immunity by the Sudan Government at the request of the U.S. Government, yet the latter chose not to post a diplomatic staff, but handed it to a local employee, who happened to be in collusion with the SPLA, and consequently indulge in an act of war against the Government. We shall not comment or draw conclusions from that set up, and we leave it to the members of the Committee to draw their own.

On the other hand it is worth mentioning that the Sudan

Government had done, with regard to Juba incidents, what it has been called upon to do by the resolution of the General Assembly dated 2 December 1992 that is to say setting up an independent Judicial Investigation Committee. But how do we expect that Committee to finish its job if it is still receiving long lists of allegations (230 names) by the Special Rapporteur as late as his recent visit to Sudan in September 1992 (paragraph 36). The references in that paragraph to the effect that the Chairman of that Committee was unable to provide answers to certain questions are inaccurate because nowhere on earth would such a Committee release information about its findings before it finalizes its report.

8. The Government is protecting Relief Supplies:

The journeys of the supply train carrying relief supplies to Wau from Babanusa and guarded by local Popular Defense Forces and army personnel, is projected in the report as a foray by these forces to kill, loot and destroy - but the Special Rapporteur does not explain why it is necessary for soldiers to walk on each side of the train, an arrangement which is necessary to safeguard the train and its shipment from the incursions of the SPLA forces. The impression that one gets from the way the Special Rapporteur examines these issues, is that the country is in a state of chaos, its armed forces are undisciplined and are given free license to loot and destroy, the government has no control of the situation, and the rebel forces are in no way responsible for the prolongation of the war, or of the genocide committed, and is still being committed, in the fratricidal and brutal warfare being waged by the factions, especially against the civil populations.

The facts of the case are that the Government was doing its best to comply with paragraph 8 of the resolution of the General Assembly dated 2 December 1992 and paragraph 12 of the Commission on Human Rights' resolution 1993/60 which calls upon all parties to permit delivery of humanitarian assistance to the civilian population in need. But instead of commending those efforts and blaming the rebels for blocking the delivery of food, the Special Rapporteur is saying that it would have been more appropriate for the Government to leave the civilian population die of hunger rather than fight the rebels who block the food supplies. That is another clear indication how the Special Rapporteur has lost sight of his mandate.

9. The Mandate is to investigate and not to collect allegations:

The report is actually a collection of allegations rather than an investigation of those allegations as called upon by the mandate of the Special Rapporteur. That wrong methodology shows lack of experience. The following are just few examples of those aspects of the report where the Special Rapporteur:-

1. Did not reflect what took place in his meetings with the 15 high ranking officials of the Sudanese Government whom he met. Neither did he reveal what is the considerable documentary information he received from the Government of the Sudan, and what impact it has on his conclusions.

2. In more that 23 paragraphs of his report had cited a considerable amount of hearsay material that have no evidential value and is contrary to the expectation that he should have attempted to verify and corroborate the information before presenting the same in his report. But it seems that the stockpiling of the allegations to distort the image of Sudan Government is more important than the verification which might wipe out those allegations and deprive the Special Rapporteur of a golden opportunity.

3. Gave various judgements without resort to evidence or substantiation of the judgements he has made. He was not impartial in giving opinions based on the allegations of the Sudanese opposition such as his reporting of the so-called illusionary ghost houses, which is particularly a creation of the Sudanese self-exiled opposition. We find it unfair on part of the Special Rapporteur to mention anything about ghost houses while failing to request a visit to the said ghost houses, when he was able to identify at least one such a ghost house.

10. Lawful Military Operations:

In paragraph 37 of his report the Special Rapporteur made the following remark: "... many reports have been received concerning indiscriminate and deliberate aerial bombardments by Government forces on civilian targets e.g. camps for displaced persons..". Here the Special Rapporteur is putting this statement out of context. Deliberate, yes, but they are not indiscriminate. The aerial bombardments took place but against military targets where heavy weaponry is used by the rebels against civilian population. For the record we would like to place that there are no displaced camps in the SPLA controlled areas. All displaced camps are situated in the Northern part of the Sudan for those fleeing the combat zones. We are troubled here to see the Special Rapporteur using the language of the so-called SPLA, which used to describe their military camps as displaced camps as a camouflage and for purposes of propaganda.

11. Unacceptable Political remarks:

In paragraph 64 the Special Rapporteur makes another suggestive remark: "... since geographically the Nuba Mountains area belong to the North, opinions diverge concerning the political appurtenance of this area, if conflict between the north and the south is considered...". This is a political remark and it is ultra vires the mandate of the Special Rapporteur. Nowhere in the

mandate has the Special Rapporteur been invited to make remarks about the political appurtenance of the Nuba Mountains or even the consideration of the conflict between the north and the south which remains a domestic concern.

Also the Special Rapporteur made another unacceptable suggestion in paragraph 64 that: "... the precedents of recent conflicts started on a greater scale in 1983 when as a consequence of former President Nimeiri's new policy focussing on the implementation of Islamic Sharia Law, local tribal administration was abolished...". Certainly the insurgence in the Nuba Mountains has nothing to do with neither the Sharia Laws nor the abolishment of local tribal administration. The Special Rapporteur had either betrayed his mandate by not allocating the required time to study the history of the region, or he is using the political logic propagated by the rebels (SPLA) in an obvious connivance with the outlaws. The Special Rapporteur needs to clear himself regarding the statements he made on both instances.

12. Contradictory reporting:

Paragraph (74) of the Special Rapporteur's report represents the climax of his contradictions. He made the following remark about the Katla tribe: "... the Chief of Katla tribe said that over the last 4 years, 67 children and women were killed by the rebels and 2,000 tribal people are under camp-arrest in Katla Mountains...". Then driven by his enthusiasm to implicate the Government of Sudan, he immediately jumps to the conclusion that: "... it must be noted that according to several reliable independent sources the Katla tribe is especially targeted by the Government of Sudan forces because of being suspected of close collaboration with the SPLA...". In spite of the several reliable independent sources he maintained, how could the Katla tribe be specifically targeted by Government forces while the Chief of Katla tribe tells the Special Rapporteur in the very paragraph (74) that it is the rebels who killed over the last 4 years, 67 children and women and kept 2,000 tribal people under camp arrest? Within the same context, we would also invite the distinguished delegates to consider the story narrated by the Special Rapporteur about the old man from Shibli in paragraph (75).

13. Incriminating Approach:

During his visit to Angarko camp for displaced persons, the Special Rapporteur explained in paragraph (78) that he did not receive convincing explanations regarding the difference in the number of the displaced persons in the said camp between the figures of UNICEF (3,270) and those of the Government of Sudan. That is not an intelligent query to be raised because the displaced camps in the Sudan are not prisons, they are simply a humble humanitarian residence area prepared by the Government to its citizens who are seeking refuge. The displaced persons are free to

go out of these camps voluntarily whenever they decide. Considerable numbers of the displaced settled in different cities where they can work and earn a living as called for in his report. This paragraph in our view, reveals the incriminating approach of the Special Rapporteur who apparently departed from his original mandate failing to establish a pattern of human rights violations. So instead of commending the Government for guaranteeing freedom of movement he availed himself of the incident to raise doubts in the absence of any allegations to justify such doubts.

14. The testimony of 34 tribal Chiefs disregarded:

In paragraph (81) it is disturbing to note that the Special Rapporteur describes the testimonies given to him by thirty-four tribal Chiefs as allegations. He made the following remark: "... the Chiefs of tribes made the SPLA responsible for all atrocities committed and damages caused in Kadugli in last years, according to their allegations atrocities started here in August 1987...". The use of the word allegations in the above context should be compared to and read with the Rapporteur's use of the same word in connection with the rebels in paragraph (83): "...allegations concerning a wide range of gross violations of human rights and atrocities committed by the SPLA were formulated...".

In fact, had it not been for the bias and lack of experience and professionalism on the part of the Special Rapporteur, he would have realized that the testimony of that large number of reliable eyewitnesses is a very strong evidence in favour of the Government and could have only been rebutted by an equally strong evidence and not be volunteering to refer to it as allegations.

15. Other foreign dignitaries reporting fairly about Sudan:

The Special Rapporteur has ignored the fact that Sudan has received during this year all the officials sent by the United Nations to investigate allegations of human rights violations and relief aid to the needy, such as Mr. Vieri Traxler, the Secretary-General's Representative, the delegation of the European Community's Troika, and some West European leaders such as the Chairman of the Sub-Committee on Human Rights of the Bundestag, the Dutch Minister of Development and International Cooperation, and some British members of the two Houses of Parliament. Sudan has also and within one week of notification accepted Mr. Biro's appointment as Special Rapporteur and cooperated fully with him to fulfil his mission.

For the sake of comparison and to prove that the reporting of the Special Rapporteur about the Sudan is really biased and politically motivated we would refer to the reporting of some of those foreign dignitaries who visited the Sudan during the

same year 1993:

(a) Mr. Jan Pronk, the Dutch Minister of Development and International Cooperation has visited the Sudan during 23-27 October 1993 and his visit covered the displaced persons camps' and the area of Nuba Mountains. The remarks of Mr. Pronk were published in Algemeen Dagblad newspaper. For the sake of comparison we refer to paragraphs 55-61 where the Special Rapporteur has reported that several persons who had tried to contact the United Nations office during his visit or who actually met with him have been questioned and arrested by police and security force. Mr. Pronk is reporting a totally different story: "a United Nations reporter preceded us here some time ago. We disposed of all names of the persons he spoke to. In many countries courage is necessary to speak to such a reporter. Afterwards the security service usually comes along... but we came across a number of persons he spoke to today. That is a good sign.". So we have two contradicting reports, the Special Rapporteur is saying that any person who dared to speak with him is subjected to reprisal by police and security forces while the Dutch Minister is reporting that he himself has met a number of persons who have spoken with UN reporters before and no one of them mentioned anything about reprisals and that is a good sign. So it is crystal clear that one of the two gentlemen is not reporting fairly, to say the least.

(b) According to operative paragraph 4 of resolution 1993/60 the Special Rapporteur is supposed to be reporting about the progress made in Sudan towards the full restoration of human rights and compliance with international human rights instruments and international humanitarian law. But nowhere in the report has the Special Rapporteur mentioned any such progress. On the other hand, Minister Pronk has reported about progress and improvements: "the situation in the Nuba Mountains has improved... we rode southward by car to Kadugli... on the way we visited villages and refugee camps ... there is no hunger... since the beginning of this year (situation of human rights) has improved... the new governor is sincere... there are improvements to speak about... the relief to refugees is good, better than in Khartoum... we came across professional Sudanese aid organizations, Islamic and Christian,with dedicated support. The mortality was better than I expected. There is water and the supply of foodstuff and medicines by the International Aid Organizations is good..." So according to the reporting of the Dutch Minister there are improvements in the field of human rights and humanitarian assistance but what can the Government of Sudan do if the Special Rapporteur is not willing to report those improvements and the progress made despite the fact that the resolution is calling upon the Special Rapporteur to make such reporting.

Furthermore we avail ourselves of this opportunity to report that the Head of State in Sudan has recently, after the

Special Rapporteur left Sudan, promulgated the Constitutional Decree No. 7 enshrining respect of human rights in the constitutional set up of the country.

Not only that but the Revolutionary Command Council has resolved itself and appointed a President of the Republic who would later be democratically elected. All that improvement was elaborated in Constitutional Decrees Nos. 8 and 9, promulgated with the Constitutional Decree No. 7. That was a strong and irreversible move towards democracy.

(c) When the Special Rapporteur refers to SPLA Leaders in his report he equates them with the Government senior officials despite the fact that they are outlaws and bandits and are continuing the fighting for personal and ethnic motives. He went even to the extent of ignoring to report about their atrocities at this stage. But the Dutch Minister is balanced in his reporting: "...I had a meeting with former southern leaders who remain in the town (Khartoum) ... including old Vice President Abel Aler, who I know for twenty years now. There is wisdom among them not the personal and ethnic motives which so dominated the discussions that I had a few months ago with SPLA leaders in the South...".

(d) Among the foreign dignitaries who visited the Sudan recently (4-8 May 1993) is Mr. Frederik Vogel, the Chairman of the Sub-Committee of the Bundestag. He reported that the Government of Sudan has been flexible and responsive to the resolution of the Commission on Human Rights 1993/60. And that the Government of Sudan has justification in criticizing Mr. Gaspar Biro when he went to Sudan last year as an independent expert. In our view, that criticism applies also this time and is two fold. Firstly, that Mr. Biro is relying in his reporting on the allegations received by him instead of verifying those allegation and searching the facts of each case. Secondly Sudan is a vast country and the means of communications are not sophisticated, so if the Government is not able to provide him with information regarding any persons within a short time that situation should not mean that the allegations are true or that the Government is not willing to provide the necessary information. We notice for example that in his interim report he referred to the fact that he has submitted a list of names to the Minister of Justice but has not received any reply during his stay. The remark is true but he did not bother to seek clarifications for the delay. The fact of the case is that the Minister of Justice and all other concerned authorities have been exerting their full efforts to collect the information from remote parts of the country, but were not able to prepare the response before he leaves Khartoum. Now the response is ready after having collected all the necessary information and will be handed over to him at any time. The response proves beyond any reasonable doubt that the allegations are unfounded. That in itself explains why Mr. Vogel is justified in reporting that the criticism of the Government to Mr. Biro is justified. Actually if there are serious

violations of human rights in the Sudan, the Special Rapporteur would not have bothered to report a five hours arrest as he did in paragraph 56. Not only that but even when the Government reports the release of some persons still the Special Rapporteur would say that is not enough and he is still waiting confirmation as he did in paragraph 57.

In fact, whenever it is possible for the Government of the Sudan to take immediate measures to alleviate any injustices even if they are justified, it would not hesitate to do so immediately as it did with regard to the situation of the women's prison in Omduraman, the only move welcomed by the Special Rapporteur as reported in paragraph 50. But no doubt such action is not possible in all cases especially when the action called for is information about hundreds of names.

(e) Mr. Vogel also reported that he has asked for visits to certain places and the Government has complied immediately with his request and that there was no time for the authorities to prepare for such visits and that after he made those visits there was no evidence of the ghost houses referred to in some allegations. As for the Special Rapporteur, he did not mention the sudden visits which he has asked for as did Mr. Vogel. Not only that but he did not even report the positive aspects he discovered during those visits. That shows the Special Rapporteur is looking for evidence to prove the allegations he brought with him and if he does not find such evidence he would not trouble himself with reporting the rebuttal.

(f) With regard to the armed conflict in the Sudan, Mr. Vogel, unlike the Special Rapporteur, reported that it is naive to depict such war as a war between Muslims and Christians, or a war between Arabs and Africans. But when we read through the report of the Special Rapporteur one would definitely reach the conclusion that it is a war between Muslims and Christians and between Arabs and Africans.

(g) Another foreign dignitary who visited the Sudan recently (31 January - 6 February 1993) is Mr. Bernd Kant the Chairman of Missio Organization who was quoted in the report of Mr. Vogel as reporting that he can't say that Christians are not tolerated in the Sudan.

(16) <u>Street Children taken care of:</u>

In section 4 entitled: "Arbitrary arrest and detention, and due process of Law" the Special Rapporteur raised in paragraph 52 a number of questions that remains in his opinion unanswered. The Special Rapporteur should have raised these questions in his meetings during the visit with the Sudanese officials he has met, but not in his report and in a suggestive way. The Government of the Sudan, Ministry of Social Planning treats the issue of street

children with seriousness and with the priority it deserves. Well prepared social plans are prepared and implemented to grant them food, shelter, medical care, education and vocational training and apprenticeship as mandated by the Presidential Decree establishing that Ministry. However, the Special Rapporteur is trying to cast doubts about the reformatory process adopted by the Government of the Sudan, and as usual he quotes allegations and testimonies without indicating their source or considering its evidential value. The suggestions, thus made by the Special Rapporteur in relation to street children, are totally misleading.

Further in section (5) entitled "Reprisals" the Special Rapporteur raised in paragraphs 57, 58 and 59 a number of incidents which deserve our attention. The persons and women said to have been arrested in front of the United Nations office in Khartoum were treated under the applicable Sudanese law prohibiting unlawful assembly. Those persons did not obtain the required permission to assemble and as such the security forces interfered with their demonstration and they were released immediately thereafter. It was also the responsibility of the Government of the Sudan to protect the Special Rapporteur and the United Nations office in Khartoum from any violence. The fact that demonstration was not authorized and unlawful renders it unpeaceful contrary to the conclusions of the Special Rapporteur. Furthermore if the Government of the Sudan had bad intentions against those people it would not have acted in front of the Special Rapporteur.

C. Conclusions

The harm has already been done by such a report because it distorts the image of Sudan Government despite the fact that it has no evidential value and we don't expect the Committee to give it any weight. Still it remains to be said that Sudan, a member of this august body, should not have been victimized by the bias and lack of experience, credibility and professionalism of Mr. Gaspar Biro. We believe that the Commission has lost time and expense in bothering to send him to Sudan to write such a report which he could have easily written from the comfort of his bedroom.

In conclusion and after the above-mentioned fair and detailed analysis of the interim report of the Special Rapporteur we sum up as follows:-

(1) The report is incomplete and is a betrayal of the mandate of the Special Rapporteur in favour of SPLA. It is designed to tempt the General Assembly to take a premature resolution against the Sudan, thereby aborting the normal and objective consideration of the situation of human rights in the Sudan by the Commission on Human Rights at its fiftieth session in early 1994, since the Commission could not decide contrary to the resolutions of the General Assembly even if the final report is favourable to the Sudan Government.

(2) Due regard should be given to the full and unreserved cooperation of the Sudan Government by calling upon the Special Rapporteur to be objective and non-selective and concentrate his efforts on verification not the collection of the allegations, and request him to explain what is meant by the phrase "reliable sources" often quoted in his report.

(3) The atrocities at the Nuba Mountains were caused by the unjustified attacks of the SPLA on the civilian population. And the PDF is composed of those members of the society who opted to take arms to defend the lives and property of their families against those attacks. And that it is the moral and legal duty of the Government to help the PDF in doing so.

(4) The Special Rapporteur should not waste time and effort in chasing individual case of lawful arrest which last in many instances for few hours to satisfy his ulterior motives, and should concentrate on the serious human rights violations , if any.

(5) The Special Rapporteur should not have reported elaborately on Juba incidents during June-July 1992 because those incidents are seized now by an Independent Judicial Committee which has been delayed by the long list of 230 persons submitted by the Special Rapporteur. That Committee is functioning now to comply with the resolution of the General Assembly dated 2 December 1992 and should not be expected to release any information before finalizing its mandate.

(6) The Government should be commended for designating troops to protect the trains delivering relief supplies in compliance with the relevant U.N. resolutions. And SPLA should be condemned for attacking those trains not vice-versa as done by the Special Rapporteur.

(7) The Special Rapporteur should not decline to report in full the information provided by the Government with a brief remark that he has not received confirmation from the so-called "reliable sources". He went to the extent of disregarding the testimony of 34 tribal Chiefs. The reporting should be comprehensive so that the Committee can judge for itself whether the conclusions of the Special Rapporteur are supported by evidence or not.

(8) The reporting of the Special Rapporteur should be compared with the reporting of the foreign dignitaries referred to above so as not to victimize the Sudan by the bias and lack of experience of the Special Rapporteur.